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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/238,950	01/27/1999	WAYNE J. BRED A	189334	5656

22908 7590 06/04/2003

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SUITE 3000
CHICAGO, IL 60606

EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/238,950

Applicant(s)

BREDA ET AL.

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 31 is/are pending in the application.
- 4a) Of the above claim(s) 7-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14-18, 20-22 and 31 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is the fifth office action for serial number 09/238,950, entitled Intravenous Equipment Hangers, in response to Remarks filed on January 2, 2003.

Election/Restriction

Claims 7-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 14, 15, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Foley 3,048,360. Foley discloses an intravenous infusion equipment hanger assembly including a partition (14), a mounting member (22,32 &42) defining a vertical first plane (defined by 22 and 32) and **including** a plate 32; a detachably mounted hanger (26,30,31, and 80) having an elongate pole (26 & 80) with multiple telescopically engaged sections (26 & 80) and engagement elements 31; an offset support 24 having a flange leg 28; wherein the pole (26 &80) is spaced from said mounting member (22, 32, and 42).

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Claims 1-6, 14, 15-18, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hastings 354,903. Hastings discloses a hanger assembly (figures 1-3) comprising at least one mounting member (A or a) including a flat portion, means for attachment (see the holes in the mounting member (a) which holds fasteners see figure 3), a hanger (B) including a pole and engaging elements (the hooks at the end of the pole), a plurality of offset supports (b and b') including flange legs, and said mounting member defines mounting pockets (a, a 1, a2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings 354,903. Hastings discloses all of the limitations of the claimed invention except for the partition. Partition by definition is merely "an interior dividing wall". Hastings teaches that the hanger assembly (Figures 1 and 2) is attached to a wall. It would have been obvious for one having ordinary skill in the art to have attached the hanger assembly to a partition since, the reference provides the motivation for attaching the hanger assembly to a wall which is equivalent to a partition.

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Allowable Subject Matter

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed January 2, 2003 have been fully considered but they are not persuasive.

Arguments regarding the positioning of the hanger relative to the partition regarding the claims Foley clearly teaches that the hanger can be positioned vertically or horizontally relative to partition to which it is attached therefore, meeting the limitations of the positively claimed invention of the applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., partition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The applicant never positively claims the partition therefore, Foley is capable of attaching to a partition.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., intravenous

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infusion equipment) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In regards to Hastings discloses an elongated pole, the examiner would like to point out that Hastings discloses an elongated pole (1), a offset support (2), and engaging elements (3) (as shown in the attached drawings). The offset support (2) is used to attach to the pole (1) to the mounting member (A or a).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

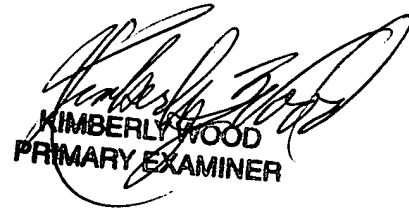
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for an Official Amendment or Response is (703) 872-9326. The fax number for an Official After Final Amendment or Response is (703) 872-9327.

Kimberly Wood
Primary Examiner
June 2, 2003



KIMBERLY WOOD
PRIMARY EXAMINER

(No Model.)

L. E. HASTINGS.

BRACKET.

No. 354,903.

Patented Dec. 28, 1886.

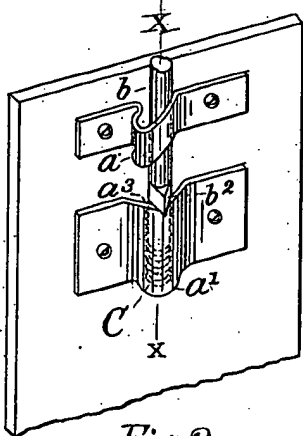


Fig. 2.

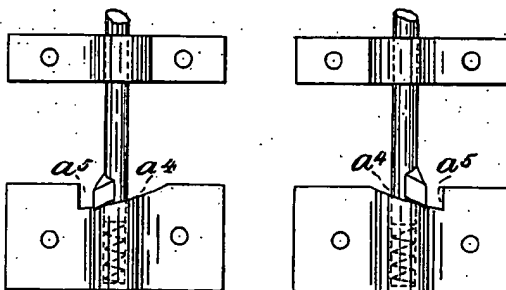


Fig. 3.

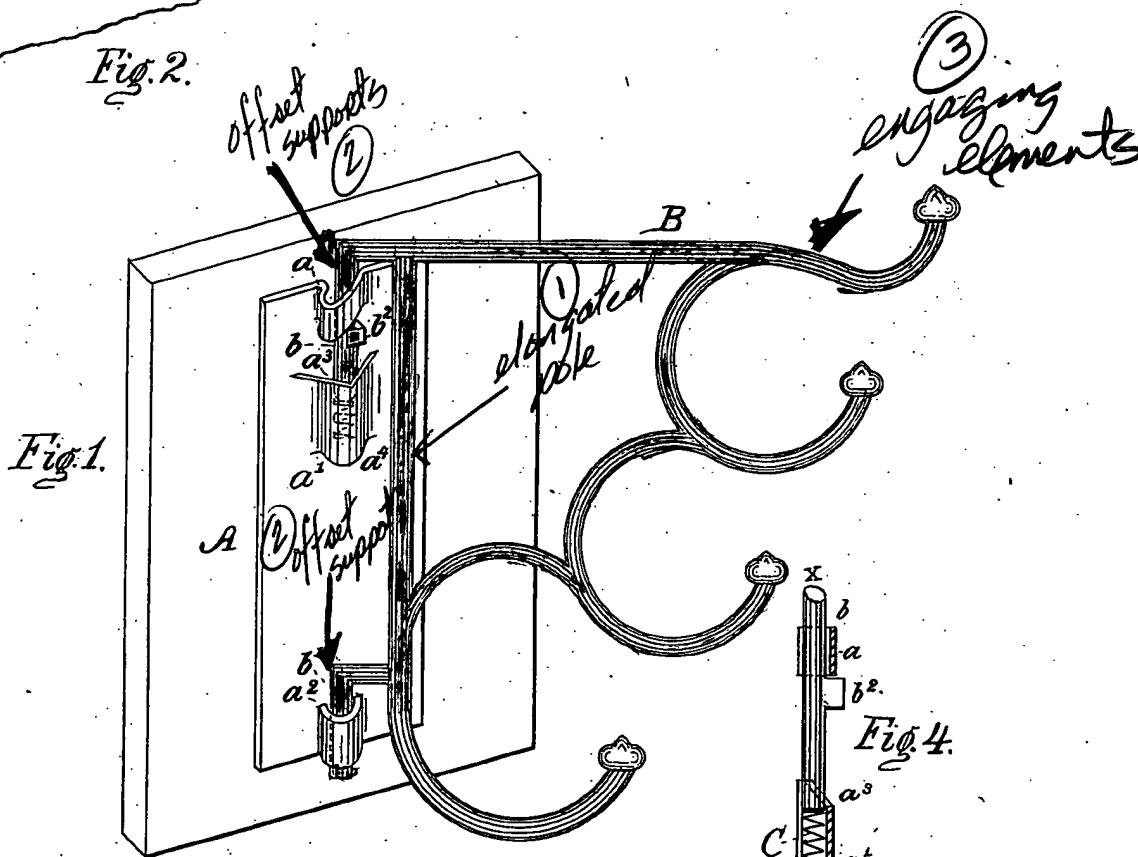


Fig. 1.

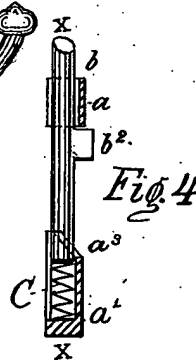


Fig. 4.

WITNESSES:

S. L. C. Hasson
W. W. Gelatt

INVENTOR

Louis E. Hastings
BY
Rich. W. Manning
ATTORNEY